

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

June 9, 2008

**IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT**

**Special Calendar for Admission of Attorneys
Sheraton Grand Sacramento Hotel
Magnolia Room
1230 J Street
Sacramento**

Monday, June 9, 2008, 10:00 a.m.

HON. Coleman A. Blease	Acting Presiding Justice
HON. Rodney Davis	Associate Justice
HON. M. Kathleen Butz	Associate Justice
Ms. Deena C. Fawcett	Clerk/Administrator
Ms. Erin R. Smith	Assistant Deputy Clerk
Mr. Zachary Harper	Bailiff

Seating of State and local Bar representatives.

Court called to order by Mr. Zachary Harper.

Acting Presiding Justice Coleman A. Blease welcomes admittees and introduces speakers.

Ms. Phyllis W. Cheng, representing the Committee of Bar Examiners of the California State Bar, speaks to admittees and presents motion for admission.

Mr. Paul A. Kramer, Jr., representing the Board of Governors of the California State Bar, speaks to admittees.

Mr. Christopher Krueger, President of the Sacramento County Bar Association, speaks to admittees.

Associate Justice Rodney Davis speaks to admittees.

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Associate Justice M. Kathleen Butz speaks to admittees and reads from Section 6068 of the Business & Professions Code.

Acting Presiding Justice Coleman A. Blease speaks to admittees, rules on motion for admission, and directs clerk to administer oath.

Oath administered by Ms. Deena C. Fawcett, Clerk/Administrator. Post admission announcement.

Court adjourns.

C056344 THE PEOPLE v. BROWN (Not For Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Hull, Acting P.J.

Cantil-Sakauye, J.

C056484 THE PEOPLE v. JOHNSON (Not For Publication)

Each of the restitution fines imposed on June 11, 2007, in case Nos. SF090962A and SF098742A, is stricken. Defendant's sentence is further modified to indicate that the two eight-month sentences on his probation violation cases shall run concurrently rather than consecutively, and the total prison terms shall be recomputed accordingly. The trial court shall prepare an amended abstract of judgment reflecting these changes and forward a certified copy to the Department of Corrections and Rehabilitation. So modified, the judgment is affirmed.

BUTZ, J.

We Concur: Scotland, P.J.

Davis, J.

C054915 BIAGINI v. BECKHAM et al. (Certified For Publication)

The judgment is affirmed. The Beckhams shall recover their costs on appeal. ...

ROBIE, J.

We Concur: Blease, Acting P.J.

Raye, J.

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June 9, 2008 continued

**C055693 In re LORENZO L.; THE PEOPLE v. (Certified For Partial Publication)
LORENZO L.**

The \$197.50 penalty on the general fund fine is vacated and the juvenile court is directed to impose an appropriate penalty. In all other respects, the judgment is affirmed. The court is directed to correct its dispositional order to specify a maximum confinement period of nine years eight months and to identify the statutory components of the penalty on the general fund fine. The court shall forward a certified copy of the corrected order to the Division of Juvenile Facilities.

MORRISON, J.
We Concur: Raye, Acting P.J.
Cantil-Sakaue, J.

**C056707 In re JAMES P.; THE PEOPLE v. (Not For Publication)
JAMES P.**

General condition 8, subdivision (1), of the juvenile court's order of probation is modified to require that appellant shall "[n]ot associate with persons who you know or whom the Probation Officer informs you are users or sellers of illegal drugs, including marijuana, or be in places where you know such substances are present." As modified, the order is affirmed. The juvenile court is directed to amend its records to reflect the modification and to forward the appropriate documents to appellant and the probation department.

CANTIL-SAKAUYE, J.
We Concur: Scotland, P.J.
Davis, J.

**C057974 In re N.J.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. K.G.**

The order of the juvenile court terminating appellant's parental rights is affirmed.

MORRISON, Acting P.J.
We Concur: Butz, J.
Cantil-Sakaue, J.

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**C053289 LIBERTY MUTUAL FIRE INSURANCE (Certified For Publication)
COMPANY v. LcL ADMINISTRATORS, INC.**

The judgments are affirmed. Respondent Liberty shall recover costs on appeal. ...

BUTZ, J.

We Concur: Hull, Acting P.J.
 Cantil-Sakauye, J.

**C057014 In re T.L.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. T.L.**

The judgment is affirmed.

RAYE, J.

We Concur: Nicholson, Acting P.J.
 Robie, J.

**C057497 In re D.W.; SAN JOAQUIN COUNTY (Not For Publication)
HUMAN SERVICES AGENCY v. J.W.**

The judgment (order terminating parental rights) is affirmed.

ROBIE, J.

We Concur: Nicholson, Acting P.J.
 Raye, J.

**C047726 THE PEOPLE v. ZARAZUA et al. (Certified For Publication)
THE COURT:**

It is ordered that the opinion filed herein on May 15, 2008, be modified...

This modification does not change the judgment.

The petitions for rehearing are denied.

THE COURT:

NICHOLSON, Acting P.J.

Butz, J.

June 11, 2008

C055615 THE PEOPLE v. MARQUEZ (Not For Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Nicholson, Acting P.J.
 Robie, J.

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June 11, 2008 continued

C056468 THE PEOPLE v. HOSKINS (Not For Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Nicholson, Acting P.J.
 Morrison, J.

C056838 THE PEOPLE v. MURRAY (Not For Publication)

The judgment is modified to award defendant 22 additional days of custody credit. As amended, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this modification and forward a copy of the amended abstract to the Department of Corrections and Rehabilitation.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J.
 Raye, J.

**C056550 In re WALTER P.; THE PEOPLE v. WALTER P.
BY THE COURT:**

Respondent's petition for rehearing is granted. The decision filed on April 25, 2008, is vacated. The parties shall serve and file supplemental letter briefs in this court no later than July 2, 2008.

BLEASE, Acting P.J.

June 12, 2008

C055473 THE PEOPLE v. WALKER (Not For Publication)

The judgment is affirmed.

BLEASE, J.

We Concur: Scotland, P.J.
 Hull, J.

**C056040 In re MICHAEL C.; AMADOR COUNTY (Not For Publication)
HEALTH AND HUMAN SERVICES
AGENCY v. MARY C.**

The orders of the juvenile court are affirmed.

DAVIS, Acting P.J.

We Concur: Nicholson, J.
 Hull, J.

**C055081 THE PEOPLE v. HAMMOND
BY THE COURT:**

Appellant's petition for rehearing is denied.

NICHOLSON, Acting P.J.

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June 12, 2008 continued

C058642 OKOYE v. ABBOTT
BY THE COURT:

Appellant's petition for rehearing is granted. The decision filed on May 22, 2008, is vacated, and the appeal is reinstated. Respondent's motion to dismiss the appeal is denied.

Appellant's civil case information statement and civil appeal mediation statement are due on or before June 27, 2008. Respondent's civil appeal mediation statement is due 10 days thereafter.

NICHOLSON, Acting P.J.

June 13, 2008

C047126 THE PEOPLE v. DEO et al. (Not For Publication)
C046880 THE PEOPLE v. NARAYAN

The Penal Code section 12022.3, subdivision (a) use enhancements are stricken as to Deo on counts 20, 22, 23, 25, 58, 59, 61, 62, 63, 64, 65 and 66. The matter is remanded for resentencing Deo on those counts. Otherwise the judgments are affirmed.

MORRISON, J.

I concur: Nicholson, J.

I agree with everything in the majority opinion except for the discussion...
Sims, Acting P.J.

C053675 THE PEOPLE v. STAYER et al. (Not For Publication)

All fines under Penal Code section 1202.45 are hereby stricken. The trial court shall prepare new abstracts of judgment which reflect the striking of these fines, the sentences imposed on Robert (see fn. 4 ante), and shall forward certified copies of the corrected abstracts of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgments are affirmed.

SIMS, J.

We Concur: Blease, Acting P.J.
Robie, J.

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- C055297 THE PEOPLE v. SELFRIDGE (Not For Publication)**
The enhancement for infliction of great bodily injury appended to count II (receiving stolen property) is hereby stricken. In all other respects, the judgment is affirmed.
SIMS, Acting P.J.
We Concur: Robie, J.
Butz, J.
- C055753 THE PEOPLE v. SHEA (Not For Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Sims, J.
Robie, J.
- C056896 THE PEOPLE v. WARNOCK (Not For Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Sims, J.
- C055598 In re TERRY W.; THE PEOPLE v. TERRY W. (Not For Publication)**
General condition 9 (1) is modified to read: "Not associate with persons whom you know or whom the Probation Officer informs you are users or sellers of illegal drugs, including marijuana, or be in places where you know such substances are present." As modified, the order of probation is affirmed.
SIMS, J.
We Concur: Scotland, P.J.
Robie, J.

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The order terminating parental rights as to both minors is reversed conditionally, and the matter is remanded to the juvenile court with directions to order HSA to provide the tribes with proper notice of the section 366.26 hearing under the ICWA. If, after proper and complete notice, a tribe determines that either of the minors is an Indian child as defined by the ICWA, then the juvenile court is ordered to conduct a new section 366.26 hearing in conformity with all provisions of the ICWA. If, on the other hand, no response is received or the tribes determine neither minor is an Indian child, then the juvenile court shall reinstate all previous findings and orders, and the orders shall be affirmed.

Hull, J.

The order terminating parental rights is reversed conditionally, and the matter is remanded to the juvenile court with directions to order DESS to provide the tribes with proper notice of the section 366.26 hearing under ICWA. If, after proper and complete notice, any tribe determines that the minor is an Indian child as defined by ICWA, then the juvenile court is ordered to conduct a new Welfare and Institutions Code section 366.26 hearing in conformity with all provisions of ICWA. If, on the other hand, no response is received or the tribes determine the minor is not an Indian child, then the juvenile court shall reinstate all previous findings and orders.

Butz, J.

SIMS, Acting P.J.